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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 SEBAHATTIN GUL,
10 Plaintiff,

11 vs.

12 CHRISTOPHER LAROSE, warden of
13 Otay Mesa Detention Center
14 DANIEL A. BRIGHTMAN, San Diego
15 Field Office Director, Immigration and
16 Customs Enforcement and Removal
17 Operations (“ICE/ERO”);
18 TODD LYONS, Acting Director of
19 Immigration Customs Enforcement
20 (“ICE”);
21 KRISTI NOEM, Secretary of the
22 Department of Homeland Security
23 (“DHS”);
24 PAMELA BONDI, Attorney General of
25 the United States,
26 U.S. DEPARTMENT OF HOMELAND
27 SECURITY;
28 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

Case No.: '25CV3690 AGS DDL

Agency Number: A




PETITION FOR WRIT OF HABEAS
CORPUS

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING
REQUESTED

1 **INTRODUCTION**

2 1. Sebahattin GUL, born  is a member of a religious
3 minority from Turkey. He grew up in Turkey where he suffered such persecution
4 that he could no longer remain in Turkey safely. He was discriminated against in
5 school, at work and every other social aspect of life in Turkey. He believed he
6 could no longer live in Turkey and he made his way to the United States. On
7 March 1, 2024 he entered the United States and presented himself to the
8 authorities.
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12 2. He entered the United States on March 1, 2024. He was detained
13 for approximately 1 day and then he was paroled by release on recognizance
14 (OREC). He was paroled into the United States on March 2, 2024.
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17 3. Mr. Gul began his life in the United States after he was released. He
18 received work authorization, found a place to live and integrated himself into the
19 local community. In the year and a half he has lived here he has established
20 himself financially as well. He filed his I-589 application for Asylum on January 6,
21 2025.
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24 4. On November 17, 2025, Mr. Gul was driving south from Los
25 Angeles to San Diego with his friend, Haluk. They became hungry and found a
26 restaurant on their mobile app and decided to stop in for something to eat. When
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1 they exited the 5 Freeway, they turned the wrong way and found themselves at the
2 entrance to Camp Pendleton. Once they realized they were in line to enter the base,
3 there was no ability to turn around. When they arrived to guard booth they
4 explained that they were trying to go to a restaurant and had made wrong turn.
5 They asked if they could simply turn around and go back the way they came. The
6 guard asked to see their ID. Mr. Gul asked the guard if they could turn around and
7 be on their way. This was about 2:00 p.m. The officer there looked at his driver's
8 license and asked if he had a green card. Since he did not have one he asked him to
9 pull over to the side of the road.
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14 5. The guard explained that his supervisor needed to come speak to
15 him and told him he had to wait. He asked several times if he was free to go. He
16 was told he could not leave. He presented proof of his work authorization and his
17 pending asylum application. No base personnel ever explained what law he had
18 violated that allowed them to hold him their prisoner. They simply asserted that
19 since he didn't have a green card he had to wait. After about an hour a supervisor
20 arrived and interviewed him and Haluk about their immigration status. He was told
21 again that they both needed to wait. The supervisor then took his picture and his
22 fingerprints. He was told once again that he must wait. He asked again why he
23 was being detained. He was simply told to wait. At approximately 8:00 p.m. ICE
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1 officers arrived. He and Haluk were both put into handcuffs and told they were
2 being sent to detention. He asked again why he was being detained. He was not
3 told why he was arrested. He was not told what law he had violated. He was not
4 advised of his Miranda rights. With no cause and no explanation and no warrant he
5 was put in the ICE vehicle and transferred to the ICE facility in downtown San
6 Diego. He was then transferred to the Otay Mesa facility.
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9 6. One of the benefits that petitioner enjoyed with parole has been his
10 ability to work, to go to school and to more actively participate in his asylum
11 application process. Suddenly, with no notice, no neutral determination that there
12 has been a change in circumstances, Respondents seek to revoke Mr. Gul parole
13 and force him to remain in custody for the duration of his application process.
14 Respondents do so based not on Mr. Gul' personal circumstances but because of
15 Respondents' interpretation of President Trump's whim and categorical
16 determination that, the Fifth Amendment notwithstanding, noncitizens are not
17 entitled to due process.
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1 referred to as “perhaps the most important writ known to the constitutional law of
2 England, affording as it does a swift and imperative remedy in all cases of illegal
3 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

5 16. Petitioner is “in custody” for the purpose of § 2241 because he is
6 arrested and detained by Respondents.

8 **PARTIES**

9 17. Sebahattin Gul (“Petitioner”) is a 27-year-old citizen of Turkey
10 born  He is currently a resident of San Diego, California, and is
11 present within the state of California as of the time of the filing of this petition.

13 18. Respondent Christopher Larose is the Warden of the Otay Mesa
14 Detention Center and is a legal custodian of Petitioner.

16 19. Respondent Daniel A. Brightman is the Field Office Director for
17 the San Diego Field Office, Immigration and Customs Enforcement and Removal
18 Operations (“ICE”). The San Diego Field Office is responsible for local custody
19 decisions relating to non-citizens charged with being removable from the United
20 States, including the arrest, detention, and custody status of non- citizens. The San
21 Diego Field Office’s area of responsibility includes San Diego, California and the
22 Otay Mesa Detention Center. Respondent Sidney Aki is a legal custodian of
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1 29. The INA gives the Attorney General or the Secretary of Homeland
2 Security discretion to grant asylum to noncitizens who satisfy the definition of
3 “refugee.” Under that definition, individuals generally are eligible for asylum if
4 they have experienced past persecution or have a well-founded fear of future
5 persecution on account of race, religion, nationality, membership in a particular
6 social group, or political opinion and if they are unable or unwilling to return to
7 and avail themselves of the protection of their homeland because of that
8 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
9
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11 30. Although a grant of asylum may be discretionary, the right to
12 apply for asylum is not. The Refugee Act broadly affords a right to apply for
13 asylum to any noncitizen “who is physically present in the United States or who
14 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
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18 31. Because of the life-or-death stakes, the statutory right to apply for
19 asylum is robust. The right necessarily includes the right to counsel, at no expense
20 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
21 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
22 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
23 to present evidence to establish eligibility.).
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1 32. Noncitizens seeking asylum are guaranteed Due Process under the
2 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
3 (1993).
4


5 33. Noncitizens who are applicants for asylum are entitled to a full
6 hearing in immigration court before they can be removed from the United States. 8
7 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
8 appellate review before the Board of Immigration Appeals of removal orders
9 entered against them and judicial review in federal court upon a petition for
10 review. 8 U.S.C. § 1252(a) *et seq.*
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13 34. Immigration detention is a form of civil confinement that
14 “constitutes a significant deprivation of liberty that requires due process
15 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
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18 35. Immigration detention should not be used as a punishment and
19 should only be used when, under an individualized determination, a noncitizen is a
20 flight risk because they are unlikely to appear for immigration court or a danger to
21 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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23 36. Parole must be terminated upon written notice after an
24 individualized determination that the humanitarian purposes no longer apply. 8
25 C.F.R. § 212.5(e)(2)(i).
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3 **FACTUAL BACKGROUND**

4 37. Petitioner is a religious minority and citizen of Turkey. He was
5 born  in Turkey and is currently a citizen of Turkey.

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7 38. Petitioner was repeatedly persecuted in Turkey. He was repeatedly
8 assaulted and his life threatened for participation in rights rallies, because of his
9 religious affiliation and the rights of sexual minorities.
10

11 39. On March 2, 2024, Petitioner was paroled into the United States to
12 seek asylum. This release was based on the individualized facts in his case
13 determined during his credible fear interview, under 8 U.S.C. § 1182(d)(5).
14

15 40. He was also issued an NTA and placed in 240 removal
16 proceedings.
17

18 41. He has attended all scheduled hearings in connection with his
19 removal proceedings.
20

21 42. On information and belief, Petitioner continues to meet all the
22 requirements of his parole.
23

24 43. Petitioner applied for asylum on January 6, 2025.

25 44. Respondents issued work authorization to Petitioner pursuant to 8
26 C.F.R. § 274a.12(c)(08).
27

1 47. Mr. Gul was never presented with a warrant for his arrest. The
2 ICE agents did not provide him any process. The ICE agents did not offer him any
3 opportunity to be heard prior to arresting and detaining him.
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5 48. On January 20, 2025, President Donald Trump issued several
6 executive actions relating to immigration, including “Protecting the American
7 People Against Invasion,” an executive order (EO) setting out a series of interior
8 immigration enforcement actions. The Trump administration, through this and
9 other actions, has outlined sweeping, executive branch-led changes to immigration
10 enforcement policy, establishing a formal framework for mass deportation. The
11 “Protecting the American People Against Invasion” EO instructs the DHS
12 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
13 prioritize civil immigration enforcement procedures including through the use of
14 mass detention.
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19 49. On information and belief, Respondents are detaining Petitioner
20 regardless of the individual facts and circumstances of his case.
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22 50. On information and belief, Respondents are using the immigration
23 detention system as a means to punish individuals for asserting rights under the
24 Refugee Act.
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26 51. On information and belief, Petitioner has no criminal history.
27

1 **CLAIMS FOR RELIEF**

2 **COUNT ONE**

3 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

4 **Not in Accordance with Law and in Excess of Statutory Authority**

5 **Unlawful Detention**

6 52. Petitioner restates and realleges all paragraphs as if fully set forth
7 here.

8 53. Under the APA, a court shall “hold unlawful and set aside agency
9 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

10 54. An action is an abuse of discretion if the agency “entirely failed to
11 consider an important aspect of the problem, offered an explanation for its decision
12 that runs counter to the evidence before the agency, or is so implausible that it
13 could not be ascribed to a difference in view or the product of agency expertise.”

14 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)
15 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
16 463 U.S. 29, 43 (1983)).

17 55. To survive an APA challenge, the agency must articulate “a
18 satisfactory explanation” for its action, “including a rational connection between
19

1 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
2 2569 (2019) (citation omitted).
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4 56. By categorically revoking Petitioner’s parole and transferring him
5 to Otay Mesa Detention Center without consideration of his individualized facts
6 and circumstances, Respondents have violated the APA.
7

8 57. Respondents have made no finding that Petitioner is a danger to
9 the community.
10

11 58. Respondents have made no finding that Petitioner is a flight risk.

12 59. By detaining the Petitioner categorically, Respondents have
13 further abused their discretion because there have been no changes to his facts or
14 circumstances since the agency made its initial determination to parole him into the
15 United States that support detention.
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18 60. Respondents have already considered Petitioner’s facts and
19 circumstances and determined that he was not a flight risk or danger to the
20 community when they granted him parole. There have been no changes to the facts
21 that justify this revocation of his parole.
22

23 **COUNT TWO**

24 **Violation of Fifth Amendment Right to Due Process**

25 **Procedural Due Process**

1 Respondents' revocation of Petitioner's release violates his right to procedural due
2 process.
3

4 **COUNT THREE**

5 **Violation of the Fourth Amendment to the Constitution**

6 66. Petitioner restates and realleges all paragraphs as if fully set forth
7 here.
8

9 67. The Fourth Amendment protects "[t]he right of the people to be
10 secure in their persons ... against unreasonable searches and seizures." U.S. Const.
11 Amend. IV. The Supreme Court has recognized that immigration arrests and
12 detentions are "seizures" within the meaning of the Fourth Amendment. *INS v*
13 *Lopez-Mendoza*, 468 U.S. 1032, 1044f (1984) (acknowledging that deportation
14 proceedings are civil, but the Fourth Amendment still applies to the "Seizure" of
15 the person.)
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19 68. The Fourth Amendment requires that arrests entail a neutral,
20 judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114
21 (1975). That neutral, judicial determination can occur either before the arrest in the
22 form of a warrant, or promptly afterward, in the form of a prompt judicial probable
23 cause determination. *Id.* Arrest and detention of a person, including of a
24 noncitizen, absent a neutral judicial determination of probable cause violates the
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1 Fourth Amendment of the Constitution. *Id. See also Cnty. Of Riverside v*
2 *McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48
3
4 hours of detention, which includes weekends, unless there is a bona fide
5 emergency or other extraordinary circumstances. *Id.*

6
7 69. Congress enacted a strong preference that immigration arrests be
8 based on warrants. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The
9 Immigration and Nationality Act thus provides immigration officers with only
10 limited authority to conduct warrantless arrests. See 8 C.F.R § 287.8(c)(2)(ii).

11
12 70. Mr. Gul, at the moment of the arrest by Respondents, was lawfully
13 present based on the Respondents' prior grant of release and parole. He did not
14 receive any judicial determination of probable cause for his arrest or continued
15 detention by Respondents.
16

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18 71. The Government cannot salvage this seizure by invoking
19 generalized immigration enforcement interests. The Fourth Amendment's
20 reasonableness inquiry is fact-specific and demands individualized justification for
21 both the arrest and the extended detention. See *United States v Brignoni-Ponce*,
22 422 U.S. 873, 882-84 (1975). *Gerstein*, 420 U.S. at 114. Mr. Gul was granted
23 release from DHS custody in 2015 and did not pose any danger to any person in
24 the community at large.
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1 72. Respondents' warrantless arrest of Mr. Gul constitutes an
2 unreasonable and unlawful seizure in violation of the Fourth Amendment.
3

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner respectfully requests this Court to grant the
6 following:
7

8 (1) Assume jurisdiction over this matter;

9 (2) Issue an Order to Show Cause ordering Respondents to show
10 cause why this Petition should not be granted within three days;

11 (3) Declare that Petitioner's detention without an individualized
12 determination violates the Due Process Clause of the Fifth Amendment and the
13 Administrative Procedures Act;
14

15 (4) Declare that Petitioner's warrantless arrest and detention
16 constitutes an unreasonable and unlawful seizure in violation of the Fourth
17 Amendment;
18

19 (5) Issue a Writ of Habeas Corpus ordering Respondents to release
20 Petitioner from custody;
21

22 (6) Issue an Order prohibiting the Respondents from transferring
23 Petitioner from the district without the court's approval;
24

1 (7) Issue and Order prohibiting the Respondents from enrolling the
2 Petitioner in any Alternative to Detention program, specifically barring them from
3 requiring an ankle monitor;
4

5 (8) Grant any further relief this Court deems just and proper.

6 Dated: December 19, 2025.

7 */s/ Brian J. McGoldrick*
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